



**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
FRANKFORT, KENTUCKY**

**ADVISORY OPINION
2014-01**

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

**TO: ALL LIFE INSURANCE COMPANIES AUTHORIZED TO TRANSACT
BUSINESS IN THE COMMONWEALTH OF KENTUCKY**

**FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE**

**RE: INTERPRETATION OF KRS 304.12-035 REGARDING RETAINED ASSETS
ACCOUNTS**

DATE: JANUARY 29, 2014

A question has arisen as to what is a “retained asset” for purposes of a retained assets account to which KRS 304.12-035 applies. Some companies regard as an essential element of the existence of a retained asset account the ability of the insured to write checks and drafts on that account. The Department does not take that position. In accordance with the definition of “retained asset” found in KRS 304.12-035(1), the Department views *any* asset held by a life insurance company through or by *any* option of settlement of a life insurance policy as a “retained asset”. Compliance with the requirements of KRS 304.12-035 does not depend on there being a check or draft writing capability on the assets in the account. Life insurance companies must apply the terms of KRS 304.12-035 to any asset of an insured which is held by the company. Please contact Malinda Shepherd of the Department’s Health and Life Division at (502) 564-6088 with any questions about this Advisory Opinion.

/s/ Sharon P. Clark
Sharon P. Clark, Commissioner
Kentucky Department of Insurance